

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROMEO COSCIA :
 :
 v. : CIVIL ACTION NO. 02-3655
 :
 SALVATORE CAPONE :

**DEFENDANT'S PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Defendant, Salvatore Capone, by his attorneys, Vangrossi & Recchuiti, respectfully requests that the Court adopt the following:

Findings of Fact

1. Plaintiff, Romeo Coscia, is a resident of the Commonwealth of Pennsylvania, and defendant, Salvatore Capone, is a resident of the State of New Jersey.

2. Romeo Coscia did not loan any of the money he asserts in this action that he loaned to Salvatore Capone or to any other person at Salvatore Capone's behest.

3. Plaintiff and defendant have engaged in numerous financial transactions over the years, and documented all that actually occurred.

4. There is no documentation to support plaintiff's claim of a loan in the amount of \$140,000.00 or any other amount.

5. Plaintiff's assertion that this loan would be documented by Italian banking records has proved to be false.

6. Plaintiff brought this action in bad faith, and without evidentiary support.

Conclusions of Law

1. Plaintiff is not entitled to recover from the defendant.

2. Plaintiff did not loan the defendant the sum of \$140,000.00 as he asserts.

3. This action was brought in bad faith, and defendant is entitled to counsel fees pursuant to FRCP 11, to be assessed at a hearing to be scheduled.

4. Defendant is entitled to judgment against the plaintiff dismissing the Complaint.

BY THE COURT:

USMJ

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the Defendant's Proposed Findings of Fact and Conclusions of Law, upon the attorney for the plaintiff, Romeo Coscia, by first class mail, postage prepaid, as follows:

John N. Salla, Jr., Esquire
Two Commerce Square
2001 Market Street, Suite 3410
Philadelphia PA 19103
(Attorney for Plaintiff, Romeo Coscia)

Francis Recchuiti, Esquire

Date: September , 2004